



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 20, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0248

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

### **EXECUTIVE SUMMARY:**

The Complainant called 911 and reported an "officer down". This call was categorized and radio broadcast as "Help the Officer". Upon arrival at the scene no officer was down. The Complainant was arrested for false reporting and appeared in mental health distress. The Complainant alleged NE#1 and NE#2 were kidnapping him and violating his rights.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG's) review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On July 10, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

On May 27, 2023, this matter was initially forwarded for Unsubstantiated Misconduct Screening (UMS) screening to the OPA Director. UMS's were suspended until the OPA Director returned and NE#1 forwarded the matter to OPA.

OPA received a complaint from NE#1 on behalf of the Complainant. OPA opened an expedited investigation for NE#1 and NE#2. During its investigation, OPA reviewed the complaint and supporting documents, computer aided dispatch (CAD) call reports, incident report, photo, 911 call audio and body-worn videos (BWV).



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**a. OPA Complaint**

On June 5, 2023, NE#1 filed a complaint on behalf of the Complainant with OPA regarding an incident occurring on May 24, 2023. The Complainant called 911 around 2236 on May 24, 2023 and falsely reported an “officer down” and made several 911 calls that day. The “officer down” call was categorized as a “Help the Officer”. Multiple patrol units from at least four precincts responded to the radio broadcast call out. Responding officers did not locate any down or injured officers upon arrival, but identified the Complainant as the subject who made the 911 calls. The Complainant admitted he falsely reported an “officer down” and was arrested for false reporting. The Complainant appeared to be in mental health distress and was sent to Swedish Cherry Hill for an involuntary mental health evaluation.<sup>1</sup> The Complainant alleged NE#1 and NE#2 were kidnapping him and violating his rights.

**b. Seattle Police Department (SPD) Documentation**

Incident Report:

On May 25, 2023, NE#2 completed an Incident Report for this case under No. 2023-143231 for the Complainant false reporting of an “officer down” in violation of SMC- 12A.16.040. NE#2 explained in his report he was working patrol and was dispatched to 7 Av North / Harrison Street for a “help the officer” type of call. The call remarks stated, “someone said officer down then disconnected”. Approximately twenty-two officers responded, given it was believed “an officer was in grave danger or had been killed”. Multiple officers responded to the scene, but no disturbance was located at this address or the surrounding area. Additional updates to the call included the following:

- “We jus[t] had a call from this number from male sounded in crisis who was req we call family members. When ADV<sup>2</sup> unable to do so, made threat about making sure we get out there”;
- “Male keeps talking about how he had called in the officer down earlier, saw the officers but didn’t talk to them. Poss at the bus stop”;
- Per playback, RP<sup>3</sup> also said his parents’ names;
- “Another call from the same number, caller was wearing at CT and being difficult, finally said he was at 7/Harrison and that he was having a mental breakdown, swore more and said nasty things when asked for his name, CT disconnected. RP has called 6 times today, one dismissed as “information provided” another as “inappropriate 911 call” and then this incident. No notes on other calls, may have just been updates to this call”.

NE#2 contacted the Complainant and asked him what his father’s name was to ensure it matched the same name the 911 caller gave to dispatch. The Complainant answered affirmatively and stated he had falsely reported an officer down incident to put us to a “test”. When NE#2 asked the Complainant what he reported to 911, he stated he told the call taker “Officer down Officer down, 911 in progress 911 in progress officer down, I repeat officer down”. NE#2

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<sup>1</sup> The King County Jail (KCJ) was contacted to see if they would make an exception to the misdemeanor booking restrictions. The KCJ declined to make an exception and the Complainant was subsequently transported to Swedish Cherry Hill for an involuntary mental health evaluation. This was screened and approved by NE#1.

<sup>2</sup> Advised (ADV).

<sup>3</sup> Reporting Person (RP).



arrested the Complainant and read him his Miranda Warnings, which he acknowledged. NE#2 searched the Complainant incident to arrest and found the Complainant's out of state ID that matched his photo and physicals on the ID card. The Complainant was placed in the back of the patrol vehicle. Officers screened this offense to book at the KCJ and they declined to accept this booking at the time of the incident.

NE#2 described the Complainant exhibiting multiple signs that demonstrated to officers that his actions created a danger to the public. Statements made by the Complainant include "he wants to go to heaven" and "if your own kind dies, you'd rather kill the people" and threatening call takers while they tried to assist him in what was believed to be an emergency.

The Complainant explained to NE#2 that he created a false incident because he had previously been a witness to an overdose and believed the officers' response was inadequate. Furthermore, the Complainant explained he wanted the police to have this feeling replicated for them when an officer died stating, "you protect your own kind, you don't protect the people", and "your quick to come out for your own law enforcement".

NE#2 wrote the Complainant self-described himself as having a "mental breakdown", had called 911 six separate times that day having no real emergency and made bizarre and nonsensical statements. Furthermore, he had demonstrated his ability to create a large false emergency response which placed officers and the public in danger given the inherent risks of emergency vehicle operations. NE#2 determined the Complainant created an immediate danger to the public and met the criteria for ITA.<sup>4</sup>

AMR responded to the scene and assisted the Complainant onto a gurney for transport to Swedish Cherry Hill hospital. The Complainant was provided a business card with NE#2's name, serial number, and the relevant case number on it. The Complainant's property found on his person from the search incident to arrest was returned. The incident was screened on scene with NE#1. The incident report included the medical addendum, arrest report and behavioral crisis report. NE#2 recommend the completed misdemeanor investigation of the Complainant be referred to the Seattle Law Department for the crime of SMC-12A.16.040 – False Reporting.

**CAD Report:**

The CAD report showed the initial call for "officer down" occurred on May 24, 2023 at 22:36. The initial call was "HELP1 HELP THE OFFICER". The responding location was 7 Av N/Harrison Street / Aurora Ave North in Seattle, WA. The CAD report showed the physical arrest was made by NE#2 and listed the multiple officers who arrived at the call. The Complainants call number four to 911 that day stated, "yes I have an officer down, officer down, ... on the ground". Call disconnected.

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<sup>4</sup> Involuntary Treatment Act (ITA).



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**c. Body-Worn Video (BWV)**

NE#2's Body-worn Video showed the Complainant was arrested for false reporting and read his Miranda Rights without incident and placed on a gurney with AMR. The Complainant claimed he was "basically being kidnapped" when being arrested and taken by AMR to the hospital.

**d. OPA Interview – Complainant**

OPA did not receive a response for a request for an interview from the Complainant. No response was received by OPA to correspondence letters mailed to him at his last known address listed on his ID at the time of his arrest.

On June 7, 2023, OPA mailed the Complainant a notice of receipt of complaint. On June 21, 2023, OPA mailed the Complainant a letter that a complaint was filed on his behalf with OPA and a request was made to speak with the Complainant regarding this incident. On July 5, 2023, a classification letter was mailed to the Complainant and this letter was returned to OPA on July 10, 2023.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

The Complainant alleged NE#1 and NE#2 arrested him without probable cause.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed. See *State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426–27, 518 P.2d 703 (1974).

The Complainant called 911 and admitted to NE#2 he falsely reported an "officer down" for officers to arrive. NE#2 asked the Complainant if his parents were the same names as given to the 911 dispatch earlier and he said yes. Furthermore, the Complainant explained to NE#2 that he created a false incident because he had previously been a witness to an overdose at Freeway Park and believed the officers' response was inadequate. Furthermore, the Complainant explained he wanted the police to have this feeling replicated for them when an officer died stating, "you protect your own kind, you don't protect the people", and "your quick to come out for your own law enforcement". OPA finds, NE#1 properly screened the incident report for false reporting under SMC-12A.16.040 and observed the Complainant's mental health distress. Based on the evidence provided by a preponderance of the evidence, the arrest was supported by probable cause and in compliance with SPD Policy 6.010 Arrests Pol-1.

Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**



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**Named Employee #2 - Allegation #1**

***6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

For the same reasons set forth above, at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**